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# Acuff-Rose Music, Inc. v. Campbell, 972 F.2d 1429 (6th Cir. 1992)

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short story and the movie were held to be sufficient so that the "based upon" credit could not have been seen as misleading to the public. Therefore, the circuit court reversed the district court's grant of a preliminary injunction regarding the "based upon" credit and affirmed the injunction with respect to the possessory credit.

-J.B.K.

**ACUFF-ROSE MUSIC, INC. v. CAMPBELL, 972 F.2D 1429 (6TH CIR. 1992).**

The holders of a song's copyright brought an action against a rap music group for copyright infringement. The District Court for the Middle District of Tennessee granted summary judgment under section 107 of the Copyright Act for the rap group and the copyright holders appealed. The rap group, 2 Live Crew, released for commercial distribution a version of Acuff-Rose Music's copyrighted song, "Oh, Pretty Woman." The rap group claimed that their version of the song was a parody. The credits on the album recognized Roy Orbison and William Dees as the writers of "Pretty Woman," and Acuff-Rose Music as the publisher of the song.

The United States Court of Appeals for the Sixth Circuit concluded that 2 Live Crew's use of Acuff-Rose's copyrighted song was not a fair use based on the four factors set forth in section 107 of the Copyright Act. The court concluded that the first factor weighs against a finding of fair use because of the admittedly commercial nature of the derivative work. The court found that the copyrighted work represented a substantial investment of time and labor made in anticipation of financial return and that the rap group copied a substantial portion of the recognizable bass and guitar riffs verbatim. The court concluded that taking the heart of the original and making it the heart of a new work was purloining a substantial portion of the essence of the original and that the likelihood of future harm existed. The court, in reversing and remanding, stated that it was the blatantly commercial purpose of the derivative work that prevented this parody from being a fair use.

-J.F.B.

**BRAUN v. SOLDIER OF FORTUNE MAGAZINE, INC., 968 F.2D 1110 (11TH CIR. 1992).**

The sons of a murder victim brought an action against a magazine and its parent company for negligently publishing an advertisement which created an unreasonable risk of solicitation of vio-